



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,847	03/06/2002	Neal R. Cutler	CUTLER-06830	9631

7590 12/21/2005

MEDLEN & CARROLL, LLP  
Suite 350  
101 Howard Street  
San Francisco, CA 94105

EXAMINER

YEBASSA, DESTA LETTA

ART UNIT	PAPER NUMBER
----------	--------------

1615

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER
----------

ART UNIT
----------

PAPER
-------

20051206

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

1. The replay filed 19/01/2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s) : (see below). See 37 CFR 1.111. Since the above -mentioned replay appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).
2. Newly submitted claims 18-23 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally presented claims are drawn to a method of treating migrains, comprising :  
(a) providing i) a patient having one or more symptoms of a migraine and ii) a formulation comprising dihydroergtamine;  
(b) administering said formulation to said patient sublingually under conditions such that one or more symptoms of said migraine are reduced; whereas the amended claims are drawn to a method of treating migrains, comprising : (a) providing i) a patient having one or more symptoms of a migraine and ii) a formulation comprising dihydroergtamine and STEROID; (b) administering said formulation to said patient sublingually under conditions such that one or more symptoms of said migraine are reduced. The originally presented claims require only dihydroerotamine for treatment of migraines and not STEROID and thus, the newly presented claims are drawn to a new invention.

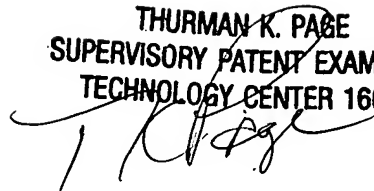
Since applicant has received an action on the merits for the originally presented invention , this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, said claims are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP 821.03. Failure to present claims drawn to the original invention which were examined on their merits before would result in abandonment of the application.

Desta Yebassa, Ph.D.  
Patent Examiner  
Art Unit 1615

Application/Control Number: 10/091,847  
Art Unit: 1615

Page 2

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

A handwritten signature in black ink, appearing to read 'T. K. Page', is written over the printed name and title of the examiner.